IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

:::

JUDGMENT

Sukh Ram.
vs.
Mangilal.

S.B.CIVIL SECOND APPEAL NO.16/2006 UNDER SECTION 100 CPC AGAINST THE JUDGMENT AND DECREE DATED 18.8.2005 PASSED BY SHRI YASHPAL SINGH CHOUDHARY, ADDITIONAL DISTRICT JUDGE NO.2, JODHPUR IN CIVIL APPEAL DECREE NO.25/2005.

DATE OF JUDGMENT ::: 24.2.2006

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr. GR Punia, for the appellant.
Mr. OP Pungalia, for the respondent.

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BY THE COURT:

Heard learned counsel for the parties.

Two courts below decreed the suit for eviction of the tenant/appellant from the suit premises and both the courts below concurrently decided the issue of personal bonafide

necessity of the plaintiff which has not vitiated because of any error of fact or law. It appears that two courts below considered the evidence in detail and thereafter reached to the conclusion that the plaintiff has proved his need.

Learned counsel for the respondent submits that during the pendency of the suit, the appellant has already constructed the house.

The said fact has not been brought on record by moving any proper application. But looking to the entire facts of the case, I do not find that any substantial question of law is involved in this appeal.

In view of the above, the appeal of the appellant deserves to be dismissed.

At this stage, learned counsel for the appellant submitted that the appellant be given some time to vacate the suit premises.

Looking to the totality of the facts, this Court deems it proper to grant some time to the appellant to vacate the suit premises.

Hence, it is ordered that in case, the appellant furnishes a written undertaking before the trial court within a period of one month that he shall hand over the vacant possession to the landlord by or before 31.8.2006 and shall not part with the possession or sublet the suit premises during this period and shall pay all the arrears of rent and decreetal amount, if due, within a period of two months from today before the trial court or directly to

the landlord, the decree under challenge shall not be executed till 1.9.2006. The appellant shall also deposit the rent month by month by 15th day of each succeeding month of his tenancy in the trial court.

In case of non-compliance of the order or default in payment of rent mentioned above, the decree shall become executable forthwith.

With the aforesaid concession, this appeal is dismissed.

(PRAKASH TATIA), J.

S.Phophaliya